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Attorneys for IT DEVICES ONLINE, INC. and  
ZAHID “DONNY” HASSAN SHEIKH

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

CISCO SYSTEMS, INC., a California  
corporation, and CISCO TECHNOLOGY,  
INC., a California corporation,

Plaintiffs.

-vs.-

ZAHID “DONNY” HASSAN SHEIKH, an  
individual; et al.

Defendants.

ADVANCED DIGITAL SOLUTIONS  
INTERNATIONAL, INC., a California  
corporation,

Third-Party Plaintiff

-vs.-

RAHI SYSTEMS, IN., a California corporation,  
et al.,

Third-Party Defendant

Case No.: 4:18-cv-07602-YGR

[Honorable Yvonne Gonzales Rogers]

**IT DEVICES ONLINE, INC. AND ZAHID  
“DONNY” HASSAN SHEIKH’S  
ANSWER TO FIRST AMENDED  
COMPLAINT**

Action Filed: December 19, 2018

Trial Date: September 28, 2010

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Defendants IT Devices Online, Inc. and Zahid “Donny” Hassan Sheikh (“Defendants”) answer the First Amended Complaint for Damages and Injunctive Relief filed by Plaintiffs Cisco Systems, Inc. and Cisco Technology, Inc. (“Plaintiffs”) as follows:

Pursuant to Federal Rules of Civil Procedure, Rule 8(b)(3), Defendants both generally and specifically deny each, each allegation contained in the Complaint except those expressly admitted below.

## **ANSWER**

### **INTRODUCTION**

1. Responding to paragraph 1 of the Complaint, Defendants deny the allegations contained in this paragraph.

2. Responding to paragraph 2 of the Complaint, Defendants deny the allegations contained in this paragraph.

3. Responding to paragraph 3 of the Complaint, Defendants deny the allegations contained in this paragraph.

### **THE PARTIES**

4. Responding to paragraph 4 of the Complaint, Defendants upon information and belief admit the allegations contained in this paragraph.

5. Responding to paragraph 5 of the Complaint, Defendants upon information and belief admit the allegations contained in this paragraph.

6. Responding to paragraph 6 of the Complaint, Defendants deny the allegations contained in this paragraph.

7. Responding to paragraph 7 of the Complaint, Defendants admits that IT Devices Online, Inc. is a California corporation with locations in Fremont, California and Dublin, California. Defendants deny that Zahid “Donny” Hassan Sheikh owns, operates, and controls IT Devices Online, Inc.

8. Responding to paragraph 8 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

9. Responding to paragraph 9 of the Complaint, Defendants lack sufficient information

1 to admit or deny any of the allegations and on that basis deny them.

2 10. Responding to paragraph 10 of the Complaint, Defendants lack sufficient  
3 information to admit or deny any of the allegations and on that basis deny them.

4 11. Responding to paragraph 11 of the Complaint, Defendants lack sufficient  
5 information to admit or deny any of the allegations and on that basis deny them.

6 12. Responding to paragraph 12 of the Complaint, Defendants deny the allegations  
7 contained in this paragraph.

### 8 JURISDICTION

9 13. Responding to paragraph 13 of the Complaint, Defendants admit the Court has  
10 subject matter jurisdiction.

11 14. Responding to paragraph 14 of the Complaint, Defendants admit that this Court has  
12 supplemental subject matter jurisdiction over the pendant state law claims.

13 15. Responding to paragraph 15 of the Complaint, Defendants admit that the Court has  
14 personal jurisdiction over Defendants.

15 16. Responding to paragraph 16 of the Complaint, Defendants admit that the venue is  
16 proper.

### 17 INTRADISTRICT ASSIGNMENT

18 17. Paragraph 17 of the Complaint contains only legal conclusions that do not require a  
19 response.

### 20 FACTUAL ALLEGATIONS

21 18. Responding to paragraph 18 of the Complaint, Defendants lack sufficient  
22 information to admit or deny any of the allegations and on that basis deny them.

23 19. Responding to paragraph 19 of the Complaint, Defendants lack sufficient  
24 information to admit or deny any of the allegations and on that basis deny them.

25 20. Responding to paragraph 20 of the Complaint, Defendants lack sufficient  
26 information to admit or deny any of the allegations and on that basis deny them.

27 21. Responding to paragraph 21 of the Complaint, Defendants lack sufficient  
28 information to admit or deny any of the allegations and on that basis deny them.

22. Responding to paragraph 22 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

23. To the extent that paragraph 23 of the Complaint contain legal conclusions, a response is not required. Defendants otherwise lack sufficient information to admit or deny any of the remaining allegations and on that basis deny them.

24. Responding to paragraph 24 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

25. Responding to paragraph 25 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

26. Responding to paragraph 26 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

27. Responding to paragraph 27 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

28. Responding to paragraph 28 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

29. Responding to paragraph 29 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

30. Responding to paragraph 30 of the Complaint, Defendants deny the allegations contained in this paragraph.

31. Responding to paragraph 31 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

32. Responding to paragraph 32 of the Complaint, Defendants admits that IT Devices Online, Inc. maintains offices at the Regional Street Address and the Fremont Street Address and that it is not affiliated with Cisco. Defendants otherwise deny the remaining allegations.

33. Responding to paragraph 33 of the Complaint, Defendants lack sufficient information to admit or deny any of the allegations and on that basis deny them.

34. Responding to paragraph 34 of the Complaint, Defendants admits that Cisco sent Zahid “Donny” Hassan Sheikh a letter on May 5, 2014, and that Mr. Sheikh replied through his

1 attorney who indicated that Sheikh had no knowledge of counterfeit product and had ceased  
2 purchasing product from Hong Kong and China-based vendors. Defendants otherwise deny the  
3 remaining allegations.

4 35. Responding to paragraph 35 of the Complaint, Defendants lack sufficient  
5 information to admit or deny any of the allegations and on that basis deny them.

6 36. Responding to paragraph 36 of the Complaint, Defendants lack sufficient  
7 information to admit or deny any of the allegations and on that basis deny them.

8 37. Responding to paragraph 37 of the Complaint, Defendants lack sufficient  
9 information to admit or deny any of the allegations and on that basis deny them.

10 38. Responding to paragraph 38 of the Complaint, Defendants lack sufficient  
11 information to admit or deny any of the allegations and on that basis deny them.

12 39. Responding to paragraph 39 of the Complaint, Defendants deny that the “dsheikh”  
13 username was used by Defendant Donny Sheikh to access Cisco’s payment system to further the  
14 Sheikh Defendants’ purported counterfeit activities. As to the remaining allegations, Defendants  
15 lack sufficient information to admit or deny any of the allegations and on that basis deny them.

16 40. Responding to paragraph 40 of the Complaint, Defendants lack sufficient  
17 information to admit or deny any of the allegations and on that basis deny them.

18 41. Responding to paragraph 41 of the Complaint, Defendants lack sufficient  
19 information to admit or deny any of the allegations and on that basis deny them.

20 42. Responding to paragraph 42 of the Complaint, Defendants lack sufficient  
21 information to admit or deny any of the allegations and on that basis deny them.

22 43. Responding to paragraph 43 of the Complaint, Defendants lack sufficient  
23 information to admit or deny any of the allegations and on that basis deny them.

24 44. Responding to paragraph 44 of the Complaint, Defendants lack sufficient  
25 information to admit or deny any of the allegations and on that basis deny them.

26 45. Responding to paragraph 45 of the Complaint, Defendants lack sufficient  
27 information to admit or deny any of the allegations and on that basis deny them.

28 46. Responding to paragraph 46 of the Complaint, Defendants lack sufficient

1 information to admit or deny any of the allegations and on that basis deny them.

2 47. Responding to paragraph 47 of the Complaint, Defendants lack sufficient  
3 information to admit or deny any of the allegations and on that basis deny them.

4 48. Responding to paragraph 48 of the Complaint, Defendants lack sufficient  
5 information to admit or deny any of the allegations and on that basis deny them.

6 49. Responding to paragraph 49 of the Complaint, Defendants deny perpetuating a  
7 counterfeiting scheme. Defendants otherwise lack sufficient information to admit or deny any of the  
8 remaining allegations and on that basis deny them.

9 50. Responding to paragraph 50 of the Complaint, Defendants lack sufficient  
10 information to admit or deny any of the allegations and on that basis deny them.

11 51. Responding to paragraph 51 of the Complaint, Defendants lack sufficient  
12 information to admit or deny any of the allegations and on that basis deny them.

### 13 **FIRST CLAIM FOR RELIEF**

#### 14 **Federal Trademark Infringement**

15 52. Responding to paragraph 52 of the Complaint, Defendants repeat, reallege and  
16 incorporate by reference all prior paragraphs of this Answer.

17 53. Responding to paragraph 53 of the Complaint, Defendants lack sufficient  
18 information to admit or deny any of the allegations and on that basis deny them.

19 54. Responding to paragraph 54 of the Complaint, Defendants deny the allegations  
20 contained in this paragraph.

21 55. Responding to paragraph 55 of the Complaint, Defendants deny the allegations  
22 contained in this paragraph.

23 56. Responding to paragraph 56 of the Complaint, Defendants deny the allegations  
24 contained in this paragraph.

25 57. Responding to paragraph 57 of the Complaint, Defendants deny the allegations  
26 contained in this paragraph.

27 58. To the extent that paragraph 58 of the Complaint contain legal conclusions, a  
28 response is not required. Defendants otherwise deny the remaining allegations contained in this

1 paragraph.

2 59. Responding to paragraph 59 of the Complaint, Defendants deny the allegations  
3 contained in this paragraph.

## 4 **SECOND CLAIM FOR RELIEF**

### 5 **Federal Trademark Counterfeiting**

6 60. Responding to paragraph 60 of the Complaint, Defendants repeat, reallege and  
7 incorporate by reference all prior paragraphs of this Answer.

8 61. Responding to paragraph 61 of the Complaint, Defendants lack sufficient  
9 information to admit or deny any of the allegations and on that basis deny them.

10 62. Responding to paragraph 62 of the Complaint, Defendants deny the allegations  
11 contained in this paragraph.

12 63. Responding to paragraph 63 of the Complaint, Defendants deny the allegations  
13 contained in this paragraph.

14 64. Responding to paragraph 64 of the Complaint, Defendants deny the allegations  
15 contained in this paragraph.

16 65. To the extent that paragraph 65 of the Complaint contain legal conclusions, a  
17 response is not required. Defendants otherwise deny the remaining allegations contained in this  
18 paragraph.

19 66. To the extent that paragraph 66 of the Complaint contain legal conclusions, a  
20 response is not required. Defendants otherwise deny the remaining allegations contained in this  
21 paragraph.

## 22 **THIRD CLAIM FOR RELIEF**

### 23 **False Designation of Origin**

24 67. Responding to paragraph 67 of the Complaint, Defendants repeat, reallege and  
25 incorporate by reference all prior paragraphs of this Answer.

26 68. Responding to paragraph 68 of the Complaint, Defendants deny the allegations  
27 contained in this paragraph.

28 69. To the extent that paragraph 69 of the Complaint contain legal conclusions, a

1 response is not required. Defendants otherwise deny the remaining allegations contained in this  
2 paragraph.

3 70. To the extent that paragraph 70 of the Complaint contain legal conclusions, a  
4 response is not required. Defendants otherwise deny the remaining allegations contained in this  
5 paragraph.

6 71. Responding to paragraph 71 of the Complaint, Defendants deny the allegations  
7 contained in this paragraph.

8 72. Responding to paragraph 72 of the Complaint, Defendants deny the allegations  
9 contained in this paragraph.

#### 10 **FOURTH CLAIM FOR RELIEF**

##### 11 **California Unfair Competition**

12 73. Responding to paragraph 73 of the Complaint, Defendants repeat, reallege and  
13 incorporate by reference all prior paragraphs of this Answer.

14 74. Paragraph 74 of the Complaint contains only legal conclusions that do not require a  
15 response.

16 75. To the extent that paragraph 77 of the Complaint contain legal conclusions, a  
17 response is not required. Defendants otherwise deny the remaining allegations contained in this  
18 paragraph.

19 76. Responding to paragraph 76 of the Complaint, Defendants deny the allegations  
20 contained in this paragraph.

21 77. To the extent that paragraph 77 of the Complaint contain legal conclusions, a  
22 response is not required. Defendants otherwise deny the remaining allegations contained in this  
23 paragraph.

24 78. Responding to paragraph 78 of the Complaint, Defendants deny the allegations  
25 contained in this paragraph.

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**FIFTH CLAIM FOR RELIEF****Unjust Enrichment**

79. Responding to paragraph 79 of the Complaint, Defendants repeat, reallege and incorporate by reference all prior paragraphs of this Answer.

80. Responding to paragraph 80 of the Complaint, Defendants deny the allegations contained in this paragraph.

81. Responding to paragraph 81 of the Complaint, Defendants deny the allegations contained in this paragraph.

**AFFIRMATIVE DEFENSES**

As separate and further defenses to the Complaint, Defendants allege, based on information and belief, the affirmative defenses listed below. By asserting these affirmative defenses, Defendants do not in any way argue or concede that they have the burden of proof or persuasion on any of these issues. Defendants presently have insufficient knowledge or information from which to form a belief as to whether they may have additional affirmative defenses available. Defendants therefore reserve the right to assert additional defenses that may become available or apparent during discovery and to amend this Answer accordingly.

**FIRST AFFIRMATIVE DEFENSE**

(Failure to State a Claim)

The Complaint and the causes of action therein fail to state facts sufficient to constitute a cause or causes of action against the Defendants.

**SECOND AFFIRMATIVE DEFENSE**

(Laches)

Plaintiffs' claims are barred, in whole or in part, by the equitable doctrine of laches.

**THIRD AFFIRMATIVE DEFENSE**

(Acquiescence)

Plaintiffs' claims are barred, in whole or in part, by the equitable doctrines of acquiescence.

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**FOURTH AFFIRMATIVE DEFENSE**

(Judicial Estoppel)

Plaintiffs' claims are barred, in whole or in part, by the equitable doctrine of judicial estoppel.

**FIFTH AFFIRMATIVE DEFENSE**

(Waiver)

Plaintiffs' claims are barred, in whole or in part, by the equitable doctrine of waiver.

**SIXTH AFFIRMATIVE DEFENSE**

(Knowledge, Consent, and Ratification)

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs consented to and approved the alleged conduct about which they now complain.

**SEVENTH AFFIRMATIVE DEFENSE**

(Causation/Contribution by Third-Party Acts)

Plaintiffs' claims are barred, in whole or in part, because the injuries and/or damages alleged in the Complaint were proximately caused by, occurred because of, and/or were contributed to by acts or failures to act by third parties.

**EIGHTH AFFIRMATIVE DEFENSE**

(Statute of Limitations)

Plaintiffs' claims are barred, in whole or in part, by the applicable statutes of limitations.

**NINTH AFFIRMATIVE DEFENSE**

(Preemption)

Plaintiffs' fourth claim for relief is preempted by federal law.

**TENTH AFFIRMATIVE DEFENSE**

(Bus. &amp; Prof. Code § 17200—No Restitution, Declaratory Relief, and/or Injunctive Relief)

Defendants allege that the request for restitution, declaratory relief, and/or injunctive relief is barred with respect to any and all alleged violations of California Business and Professions Code section 17200, et seq. that have discontinued, ceased, and are not likely to occur.

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**ELEVENTH AFFIRMATIVE DEFENSE**

(Bus. & Prof. Code § 17200—Not Unfair, Unlawful, Fraudulent, or Deceptive)

Defendants allege that its business actions or practices were not unfair, unlawful, fraudulent, or deceptive within the meaning of California Business and Professions Code section 17200 et seq.

**TWELFTH AFFIRMATIVE DEFENSE**

(Failure to Mitigate Damages)

Plaintiffs' claims are barred, in whole or in part, because Plaintiff failed to take all reasonable, necessary, and appropriate action to mitigate any purported damages resulting from the alleged matters set forth in the Complaint.

**THIRTEENTH AFFIRMATIVE DEFENSE**

(Damages are Speculative and Uncertain)

The Complaint's requests for damages against Defendants are barred because Plaintiffs' damages, if any, are speculative, uncertain, and incapable of being ascertained.

**FOURTEENTH AFFIRMATIVE DEFENSE**

(No Punitive Damages)

Plaintiff is precluded from recovering any punitive damages because Defendant did not engage in oppressive, fraudulent, or malicious conduct toward Plaintiff.

**FIFTEENTH AFFIRMATIVE DEFENSE**

(Improper Trademark)

Plaintiffs' trademark registrations were improperly issued by the U.S. Patent and Trademark Office.

**SIXTEENTH AFFIRMATIVE DEFENSE**

(Fair Use, First Sale Doctrine, Generic Terms, Lack of Secondary Meaning)

Plaintiffs' claims are barred by trademark fair use, first sale doctrine, generic terms, and/or lack of secondary meaning.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

(Innocent Infringement)

Plaintiffs' claims are barred, in whole or in part, because any infringement, if any, was

1 innocent.

2 **EIGHTEENTH AFFIRMATIVE DEFENSE**

3 These answering Defendants allege that said Complaint does not describe the claims against  
4 Defendant with sufficient particularity and certainty to enable Defendants to determine what  
5 additional defenses may exist. Defendants reserve the right to assert all defenses which may be  
6 pertinent to or arise from the Complaint, once the precise nature of such claims and cause of action  
7 are ascertained through discovery.

8 **RELIEF SOUGHT**

9 WHEREFORE, these answering Defendants pray judgment in their favor and against  
10 Plaintiffs as follows:


- 11 1. That Plaintiffs take nothing by way of their Complaint as against these answering  
12 Defendants;
- 13 2. For reasonable attorney's fees incurred in the defense of this action;
- 14 3. For costs of suit; and
- 15 4. For such other and further relief as the Court may deem just and proper.

16 **JURY DEMAND**

17 Defendants hereby demand a trial by jury.

18 DATED: April 1, 2019

19 **ROBINSON DI LANDO**  
A Professional Law Corporation

20 By   
21 Michael C. Robinson  
22 Brad Stuckey

23 Attorneys for IT DEVICES ONLINE, INC. and  
24 ZAHID "DONNY" HASSAN SHEIKH